IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 1212 of 2007

MANGALA RAM
V/S
STATE & ORS.

Mr. MANGALA RAM the petitioner in person.

Mr. OP BOOB, A.G.A., for the respondent

Date of Order : 23.3.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

The petitioner is present in person.

It is submitted that vide Annexure-6 fifteen days notice was given to submit his explanation otherwise proceedings under Section 63 of the Rajasthan Municipalities Act shall be taken, and notwithstanding this vide Annexure-7 of the same date the petitioner has been placed under suspension by observing that proceedings against the petitioner have been commenced under Section 63, therefore, exercising powers under Section 63(4) he has been placed under suspension.

Show cause notice were given on 15.3.2007 returnable by 21.3.2007. The respondents have been served and no reply has been filed. Even today learned counsel for the respondent is not in a position to state as to how the

order Annexure-7 can be sustained on the face of recital contained in Annexure-6.

In my view, when in Annexure-6 the petitioner was given 15 days time to submit explanation, and in the event of failure, obviously either to submit explanation or to show sufficient explanation, the proceedings were to be initiated under Section 63. That being the position it cannot be said that on that day the proceedings under Section 63 had been initiated. Obviously, consequently until and unless it can be said that proceedings under Section 63 have been commenced, the power to suspend under Section 63(4) is not at all available.

In that view of the matter, though the matter is listed for admission but instead of keeping it pending I think it appropriate to allow the writ petition on this short point.

Accordingly the writ petition is allowed, and Annexure-7 is quashed. Needless to say that if any enquiry is initiated against the petitioner under Section 63 of the Act, obviously this quashing would not come in the way of the State in passing any other appropriate order as they may think appropriate.

(N P GUPTA),J.

/Sushil/